IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTY DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR. JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 25471 of 2002

Between:

AP Tourism Development Corporation Limited, Hyderabad

Represented by its Executive Engineer.

..... PETITIONER

AND

1 A.P.Pollution Control Board,
II Floor, Huda Complex, Miatrivanam, SR.Nagar, Hyderabad
Rep.by its Member Secretary.
2 Government of Andhra Pradesh Rep.by its Secretary,
EFS&T Department, Secretariat, Hyderabad
3 A.P.Pollution Control/Appellate Authority,
H.No.61-169/2, Lakdikapool, Hyderabad, rep.by its Chairman.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus: 1. declaring the order passed by the 3rd respondent in Appeal No.29/2002 Dt.13/09/2002 to extent of restricting the construction of jetty on wooden pillars as illegal, arbitrary, and unconstitutional apart from being violative of principles of natural justice, 2.set aside the conditions for grant of permission to

construct jetty on wooden pillars, consequently 3.direct the respondents to permit the petitioner corporation to construct the jetty as per it original plan.

For the Petitioner: MR.NANDIGAM KRISHANA RAO

Counsel for the Respondent No.1: MR.S.V.Bhatt

Counsel for the Respondent No.2: Govt. Pleader for Forests.

Counsel for the Respondent No.3: None appeared.

The Court Made the Following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

This writ petition has been filed by the A.P. Tourism Development Corporation against the order of the appellate authority constituted under the Water (Prevention of Pollution) Act, 1974 and Air (Prevention of Pollution) Act, 1981. The petitioner had submitted a proposal for issuance of no-objection certificate for constructing a jetty at Necklace Road, Hussain Sagar Lake, Hyderabad, on which, the respondent No.1 sent reply to the petitioner and aggrieved by the said action, appeal was preferred. By the order impugned, the appellate authority concluded that construction of jetty cannot be considered as a commercial activity as it intends to develop tourism activity. Therefore, found that construction of proposed jetty near Sanjeevaiah Park abutting the necklace road is neither a permanent structure nor the same is to be taken as a commercial activity within the meaning of the judgment of a Division Bench of this Court in FORUM FOR A BETTER HYDERABAD vs GOVT. OF A.P [2001 (4) ALD 776]. However, while setting aside the order passed by the A.P. Pollution Control Board and directing the Pollution Control Board to accord permission sought for by the petitioner, certain parameters were laid down by the appellate authority that it has to be a jetty with wood and not with cement. The petitioner was thus permitted to construct the jetty with wooden pillars. Permission has not yet been accorded by the A.P. Pollution Control Board. Learned counsel for the petitioner would urge that construction of jetty with concrete pillars ought to have been permitted. Such submission cannot be accepted since concrete pillars once embedded in the lake would amount to violating the directions in the aforementioned judgment of this court, which prohibited construction of any permanent structure in the Hussain Sagar Lake. Therefore, we find no force in the submission made by the learned counsel for the petitioner. However, we make it clear that in case there will be any proposal to have a jetty or any other thing, not of a permanent nature, such proposal will be duly considered by the respondent Board and permission accorded

in accordance with law.

The writ petition is accordingly disposed of.

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DEVINDER GUPTA, CJ

25-11-2004

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M.NARAYANA REDDY, J

Tvr

To

1. The Member Secretary, A.P.Pollution Control Board,
   II Floor, Huda Complex, Miatrivanam, SR.Nagar, Hyderabad
2 The Secretary, Government of Andhra Pradesh,
   EFS&T Department, Secretariat, Hyderabad
3 The Chairman, A.P.Pollution Control/Appellate Authority,
   H.No.61-169/2, Lakdikapool, Hyderabad.

4 2 CCs to the Govt. Pleader for Forests, High Court Buildings,

Hyderabad (OUT)

5 2 CD copies.